IN THE HIGH COURT OF JUDICATURE AT BOMBAY

O.O.C.J.

CHAMBER SUMMONS NO. 973 OF 2004
IN
SUIT NO.3197 OF 1988

New Bandra Hill Co.op.Hsg.
Soc.Ltd ...Plaintiffs
vs.
M/s. Ambit Corporation and Ors.....Defendants
AND
M/s. Omprakash and Co. and anr.....Respondents

Ms. Sidhawa i/b. Mehta and Girdharilal for the plaintiffs.

C.S. Kapadia with Ms. S. Tandon i/b. DSK Legal for respondent no.1.

K.N. Gaikwad for respondent no.2.

CORAM: S.U. KAMDAR, J.

DATE : 12TH APRIL, 2005.

P.C. :

1. The present chamber summons has been taken out for amendment of the plaint in terms of the schedule annexed thereto. According to the learned counsel for the plaintiff the said amendment has become necessary to incorporate the subsequent events after the date of the filing of the suit. Learned counsel appearing for respondent no.1 has vehemently contended that the present chamber summons should be dismissed. He has contended that the claim sought to be raised as against the respondent no.1 is barred by the law of limitation. It is not possible

to determine the issue of limitation at this stage being mixed question of law and facts. It is kept open to be decided at the trial of the suit in view of the judgment of the apex court in the case **Raghu Thuilak D. John vs. S. Rayappan and Ors reported in (2001) 2 SCC 472 and in the case of Pankaja and Anr. vs. Yellappa (Dead) by LRs reported (2004) 6 SCC 415.**

2. In so far as the second contention is concerned that the present chamber summons lacks bonafide and it has been taken out deliberately at a belated stage and there is a gross delay in taking out the present chamber summons. I am of the opinion that amendment under order 6 rule 17 can be granted at any stage of the proceedings, thus there is no substance in that contention.

. In view thereof, chamber summons allowed. Chamber summons disposed off accordingly. Amendment to be carried out within two weeks.

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